**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE J.B.KOSHY**
**&**
**THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN**

**THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929**

**MFA.No. 500 of 1999(B)**
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**MVOP.82/1993 of M.A.C.T.,PUNALUR**
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**APPELLANT/2ND PETITIONER:**
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**SHYLAJA, AGED 23, D/O.CHELLAPPAN, BHASKARA VILASOM, NETTAYAM MURI, AMBALAMUKKU, VELINALLOOR (APPELLANT HEREIN AND THE MINOR PETITIONER IN O.P.(MV) NO.82/93 OF MACT, PUNALUR).**

**BY ADV. SRI.T.R.ASWAS**

**RESPONDENTS/RESPONDENTS:**
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**1.VIJAYAN ASAN, VALIYAVILA VEEDU, KURUMAMDAL, PARAVOOR. (DELETED)**

**2.SUDARSANA BABU, PUTHEN VEEDU, THAZHATHIL, PERINAD, QUILON. (DELETED)**

**3.NEW INDIA ASSURANCE CO. LTD., QUILON.**

**4.M.C.LEKSHMANAN, S/O.RAMAN, VADAKKOTTY PUTHENVEEDU, THAZHAM, CHATHANOOR.(DELETED)**

**5.THE ORIENTAL INSURANCE CO. LTD., QUILON.**

**(R1, R2 AND R4 ARE DELETED FROM THE PARTY ARRAY AT THE RISK OF the APPELLANT AS PER ORDER DATED 6.2.2007 IN I.A.250/2007)**

**BY ADV. SRI.KKM.SHERIF FOR R3**
**SRI.A.A.ZIYAD RAHMAN**
**SRI.GEORGE CHERIAN (THIRUVALLA) FOR R5**

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**J.B.KOSHY & K.P.BALACHANDRAN, JJ.**

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**M.F.A.NO.500 OF 1999 (B)**

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**Dated this the 19th day of July, 2007**

**J U D G M E N T**

**KOSHY,J.**

Petitioner met with an accident while she was travelling in a bus on 6.11.1987. She was aged 17 at the time of accident. Ext.A4 is the disability certificate which shows that she suffered 15% permanent disability. There was dislocation of right shoulder with fracture. She was impatient in the hospital for 11 days. She also produced Ext.A6 series of bills to show treatment expenses. Despite production of medical certificate, no amount was awarded for disability and for loss of earning power and pain and sufferings, Rs.5,000/- was awarded and another Rs.5,000/- was awarded for treatment expenses, conveyance charges and other similar heads and thus total amount awarded was only Rs.10,000/- with 12% interest and Rs.250/- as costs. Ext.A4 was marked with consent. No reasons are stated for disbelieving Ext.A4. But considering the nature of disability, it is argued that even if a notional income

of Rs.10,000/- and 10% disability is taken and multiplier used is 16 then she will get Rs.16,000/- for loss of earning capacity and disability. She had fracture and dislocation of the right shoulder and we are of the opinion that she was a student and accident occurred in 1987. Taking all these aspects, we are of the opinion that compensation cannot be granted on a multiplier method. But some amount of compensation ought have been granted for compensation for disability, loss of earning power and loss of amenities and we are of the opinion that Rs.7,500/- can be granted on all heads of disability. We see no ground to enhance the compensation granted on other grounds and the above Rs.7,500/- over and above the compensation as decreed by the tribunal should be deposited by the 3rd respondent Insurance company with 8% interest from the date of application till deposit and on deposit of the amount claimant will be entitled to withdraw the same. With the above observations this appeal is partly allowed.

**J.B.KOSHY, JUDGE**

**K.P.BALACHANDRAN, JUDGE**

prp

**J.B.KOSHY & K.P.BALACHANDRAN, JJ.**

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**M.F.A.NO.500 OF 1999 (B)**

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**J U D G M E N T**

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**19th July, 2007**